

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATIONAL CITY HOME LOAN
SERVICES, INC., a Delaware corporation,

Plaintiff,

v.

DENNIS FOISY and JANE DOE FOISY,
individuals and the marital estate composed
thereof; and DENNIS FOISY TRUSTEE OF
PACIFIC VENTURES LANDHOLD, a trust,

Defendants.

No. C05-0373 RSM

ORDER GRANTING PLAINTIFF
NATIONAL CITY HOME LOAN
SERVICES, INC.'s MOTION FOR
SUMMARY JUDGMENT AND
JUDGMENT

I. ORDER ON SUMMARY JUDGMENT

THIS MATTER having come on before the Honorable Ricardo Martinez, on Plaintiff National City Home Loan Services, Inc.'s Motion for Summary Judgment (the "Motion"). The Court having considered the unopposed Motion, the Declaration of David C. Neu with the attachments thereto, the Declaration of Karen Gibbon with the attachments thereto, the Affidavit of Johnny Longshore with the attachments thereto, the pleadings filed herein, and the arguments of counsel and being fully advised in the premises, the Court finds as follows:

1. Dennis Foisy recorded documents with the Snohomish County Auditor's office

1 with the intent of clouding title to the Pledged Property, as that term is defined in the Motion;

2 2. Dennis Foisy defrauded Johnny Longshore out of thousands of dollars;

3 3. Foisy counseled Johnny Longshore to file bankruptcy petitions;

4 4. the Alleged Arbitration Award, as that term is defined in the Motion, is
5 fraudulent;

6 5. Dennis Foisy and the PVL Trust filed an involuntary bankruptcy petition
7 against National City Home Loan Services, Inc. ("National City") in bad faith, with malicious
8 intent, and for the purpose of harassing National City;

9 6. Dennis Foisy and/or the PVL Trust has filed other bad-faith petitions for
10 involuntary bankruptcy in the United States Bankruptcy Court for the Western District of
11 Washington;

12 7. Foisy and the PVL Trust have used the bankruptcy process for improper
13 purposes;

14 8. A permanent injunction is necessary to protect the rights of National City.

15 9. There are no issues of material fact and National City is entitled to judgment as
16 a matter of law.

17 Based on the above findings-of-fact, now therefore, it is hereby;

18 ORDERED, ADJUDGED, and DECREED as follows:

19 1. Dennis Foisy and the PVL Trust, and their agent, successors, and assigns, are
20 immediately and permanently restrained from taking any action to enforce the alleged
21 arbitration award "awarded" on June 30, 2004, in Phenix City, Alabama, by Southeast
22 Arbitration & Mediation, L.L.C against National City, and

23 2. Dennis Foisy and the PVL Trust, and their agent, successors, and assigns, are
24 immediately and permanently restrained from filing an involuntary petition for bankruptcy
25 against National City until further order of the court, and

26 3. National City is awarded judgment against Dennis Foisy and the PVL Trust,

1 jointly and severally, for its reasonable attorneys fees incurred herein. National City shall
2 apply to this Court for an award for these additional amounts by way of cost bill, at which
3 time said Court shall issue an amendment to this judgment adding the amount of these
4 additional costs to the judgment, and

5 4. The Clerk of the Court shall enter judgment against Dennis Foisy and Dennis
6 Foisy, Trustee of Pacific Venture Landhold on the terms specific herein.

7
8 DONE IN OPEN COURT this 13th day of January, 2006.

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12 RICARDO S. MARTINEZ
13 UNITED STATES DISTRICT JUDGE

14 Presented By:

15 Preston Gates & Ellis LLP

16
17 By: /s/ David C. Neu

18 Michael J. Gearin, WSBA # 20982

19 David C. Neu, WSBA # 33143

20 Attorneys for National City Home Loan Services, Inc.

21 II. JUDGMENT SUMMARY

- 22 1. Judgment Creditor: National City Home Loan Services, Inc.
- 23 2. Judgment Creditor's Attorneys: Preston Gates & Ellis LLP
24 Michael J. Gearin
25 David C. Neu
26 925 Fourth Ave., Suite 2900
Seattle, WA 98104
3. Judgment Debtor(s): Dennis Foisy, an individual, and Dennis
Foisy, Trustee of Pacific Ventures
Landhold, a trust

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